

**State of California
Environmental Protection Agency**

AIR RESOURCES BOARD

**PROPOSED 2004 AMENDMENTS REFINING THE CALIFORNIA PHASE
3 REFORMULATED GASOLINE REGULATIONS**

FINAL STATEMENT OF REASONS

December 2004

State of California
California Environmental Protection Agency

AIR RESOURCES BOARD

**Final Statement of Reasons for Rulemaking
Including Summary of Comments**

**PUBLIC HEARING TO CONSIDER PROPOSED 2004 AMENDMENTS REFINING THE
CALIFORNIA PHASE 3 REFORMULATED GASOLINE REGULATIONS**

Public Hearing Date: November 18, 2004
Agenda Item No: 04-10-4

I. GENERAL

In this rulemaking the Air Resources Board (ARB or Board) is adopting minor amendments to the California Phase 3 Reformulated Gasoline (CaRFG3) regulations, which have been fully implemented in the state since December 31, 2003. The amendments clarify the regulatory language to be consistent with the intended goals of the regulations, correct minor errors, and make improvements to enhance flexibility and enforceability.

The rulemaking was initiated by the October 1, 2004 publication of a notice for a November 18, 2004 public hearing to consider the 2004 CaRFG3 amendments. A "Staff Report: Initial Statement of Reasons" (referred to as the Staff Report) was also made available for review and comment starting October 1, 2004. The Staff Report, which is incorporated by reference herein, contains an extensive description of the rationale for the proposal. The text of the proposed amendments to title 13, California Code of Regulations (CCR) sections 2260, 2262, 2262.4, 2262.5, 2262.6, 2262.9, 2263, 2265 (and the incorporated "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model" (the CaRFG3 Predictive Model Procedures)), and 2266.5, were included in appendices to the Staff Report. These documents were also posted on the ARB's Internet site for the rulemaking: <http://www.arb.ca.gov/regact/carfg304/carfg304.htm>.

At the November 18, 2004 hearing, the Board received written and oral comments. At the conclusion of the hearing, the Board adopted Resolution 04-39, in which it adopted the proposed amendments without any modifications.

Incorporation of the CaRFG3 Predictive Model Procedures. As noted above, section 2265(a)(2) incorporates the CaRFG3 Predictive Model Procedures by reference. The regulation identifies the incorporated document by title and date. The incorporated document is readily available from the ARB upon request, was made available in the context of this rulemaking in the manner specified in Government Code section 11346.5(b).

The CaRFG3 Predictive Model Procedures are incorporated by reference because it would be impractical to print the 62-page document in the CCR. Existing ARB administrative practice has

been to have the Predictive Model procedures incorporated by reference rather than printed in the CCR because these procedures are highly technical and complex, have pages of equations and fourteen tables, include various worksheets, and have a very limited audience. The affected public is accustomed to the incorporation format used for these procedures.

Fiscal Impacts. The ARB has determined that this regulatory action will not result in a mandate to any local agency or school district, the costs of which are or are not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code.

Consideration of Alternatives. Extensive discussions and meetings involving staff, the affected oil refiners and gasoline marketers, and others preceded the amendments proposed in this rulemaking. The Board has determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulatory action was proposed or would be as effective and less burdensome to affected private persons than the action taken by the Board.

II. SUMMARY OF COMMENTS AND AGENCY RESPONSES

During the public comment period, the Board received one written comment on the proposed amendments, in which ChevronTexaco Products Company supported adoption of the amendments. At the November 18, 2004 hearing, the staff presented the proposed amendments along with an update on implementation of the CaRFG3 regulations and the results of a recently completed ethanol permeation study that was cosponsored by the Coordinating Research Council and the ARB. After the staff's presentation, two persons testified in support of the proposed amendments: Jim Uihlein of British Petroleum, representing the Western States Petroleum Association, and Tom Koehler of the California Renewable Fuels Partnership. Mr. Koehler also testified on the permeation study and the role of ethanol as a component of CaRFG3. Harold Haskew, the independent consultant who was principal project administrator of the ethanol permeation study, provided testimony on the study. Charlie Peters of Clean Air Performance Professionals commented on oxygenated fuels in California. There were no objections or recommendations (other than support) specifically directed at the proposed amendments or to the procedures followed by ARB in adopting the amendments.